

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
61 Forsyth St., Suite 4T20  
Atlanta, Georgia 30303-8909



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November 9, 2009

Ms. Elizabeth A. Johnson  
Commissioner  
Cabinet for Health and Family Services  
Department of Medicaid Services  
275 East Main Street, 6W-A  
Frankfort, Kentucky 40621-0001

Attention: Kevin Skeeters

RE: Kentucky Title XIX State Plan Amendment, Transmittal #09-009

Dear Ms. Johnson:

We have reviewed the proposed amendment to the Kentucky Medicaid State Plan that was submitted under transmittal number 09-009. This amendment changes the reassessment for compliance with Section 1902(a)(68) of the Social Security Act from annually to at least every three years. This section ensures compliance with the "Employee Education about False Claims Recovery".

Based on the information provided, we are pleased to inform you that Medicaid State Plan Amendment 09-009 was approved on November 4, 2009. The effective date for this amendment is October 1, 2009. We are also enclosing the approved HCFA-179 and plan page.

If you have any questions or need any further assistance, please contact Maria Donatto at 404-562-3697.

Sincerely,

Mary Kaye Justis, RN, MBA  
Acting Associate Regional Administrator  
Division of Medicaid & Children's Health Operations

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER:  
09-009

2. STATE  
Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE  
October 1, 2009

5. TYPE OF PLAN MATERIAL (*Check One*):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION:  
Deficit Reduction Act of 2005 [Section 1937 of the Social Security Act]

7. FEDERAL BUDGET IMPACT:  
a. FFY 2007 - budget neutral  
b. FFY 2008 - budget neutral

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.42-A page 1

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*):

Same

10. SUBJECT OF AMENDMENT:

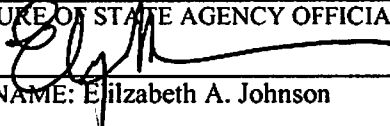
This plan amendment changes the reassessment for compliance with section 1902(a)(68) of the Social Security Act from annually to at least every three years.

11. GOVERNOR'S REVIEW (*Check One*):

- ☐ GOVERNOR'S OFFICE REPORTED NO COMMENT  
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED: Review delegated  
to Commissioner, Department for Medicaid  
Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:



13. TYPED NAME: Elizabeth A. Johnson

14. TITLE: Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: October 8, 2009

16. RETURN TO:

Department for Medicaid Services  
275 East Main Street 6W-A  
Frankfort, Kentucky 40621

**FOR REGIONAL OFFICE USE ONLY**

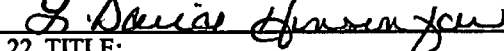
17. DATE RECEIVED:  
10/09/09

18. DATE APPROVED:  
11/04/09

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:  
10/01/09

20. SIGNATURE OF REGIONAL OFFICIAL:



21. TYPED NAME:  
Mary Kay Justis, RN, MBA

22. TITLE:  
Acting Associate Regional Administrator  
Division of Medicaid & Children's Health Opns

23. REMARKS:

Approved with following changes as authorized by State Agency on email dated 11/02/09:

Block # 6 Deficit Reduction Act of 2005 (Section 1937 of the Social Security Act) **changed to read:** "Compliance with section 1902(a)(68) of the Social Security Act"; Block #7a FFY 2007 - budget neutral and Block 7b FFY 2008 - budget neutral **changed to read:** 7a FFY 2009 - budget neutral and 7b FFY 2010 - budget neutral.

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**Method for establishing Employee Education  
Of False Claim Policies and Procedures**

1. The Department will query the Decision Support System (DSS) for FFY 2006 Fee-for-Service and Encounter Data as of January 1, 2007 to identify entities for the purposes of section 6032 of the Deficit Reduction Act of 2005 with distinct Federal Employer Identification Number (FEIN) receiving over \$5,000,000.
2. Each entity from the query in step 1, will be sent a provider letter reminding them that their provider agreement requires them to comply with all applicable State and Federal laws and advising them that the Deficit Reduction Act of 2005 section 6032 contains a new requirement that must be met. Any entity paid through the Medicaid FMAP signs the aforementioned provider agreements in order to receive a provider number and the ability to bill. This includes Passport, Transportation Brokers, and other state agencies. The letter will include a form that must be signed and returned certifying that they meet the following requirements from section 1902(a)(68) of the Social Security Act:
  - A. Establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs(as defined in section 1128B(f));
  - B. include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and
  - C. include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse;
3. The entities will attach relevant documents in meeting the requirements from 1902(a)(68) of the Social Security Act. Relevant documents include but are not limited to policy memos, employee handbook, and any document that demonstrates how the entity satisfies the requirements. Responses will be due to the Department by September 1, 2007.
4. The Department will evaluate the entities responses, and certify the response as valid or state the reasons the conditions were not met in a response back to the entity by December 31, 2007.
5. For future years beginning with FFY 2009, a reassessment will occur at least every three years to ensure compliance with 1902(a)(68) of the Social Security Act. The following deadlines will apply in the given year:
  - A. Un-duplicated providers from the previous FFY's DSS query meeting the same criteria in step 1 as of January 1 following the end of the respective FFY will be sent the entity letters from step 2 by March 31 of the respective year;
  - B. Entity response to the letter will be due by June 30 of the respective year; and
  - C. The Department will send the response to the entity by September 30 of the respective year. The Department letter will validate the entities response' or state the reasons the conditions were not met.